

**To:** Sensible Vision, Inc. ([trademarks-ch@btlaw.com](mailto:trademarks-ch@btlaw.com))

**Subject:** U.S. TRADEMARK APPLICATION NO. 85582656 - FASTACCESS - SEN004 T302

**Sent:** 3/31/2014 9:30:13 PM

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**OFFICE ACTION (OFFICIAL LETTER) ABOUT APPLICANT'S TRADEMARK APPLICATION**

**U.S. APPLICATION SERIAL NO.** 85582656

**MARK:** FASTACCESS

**\*85582656\***

**CORRESPONDENT ADDRESS:**

FRANK M SCUTCH III  
BARNES & THORNBURG LLP  
171 MONROE AVENUE NW  
GRAND RAPIDS, MI 49503

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**APPLICANT:** Sensible Vision, Inc.

**CORRESPONDENT'S REFERENCE/DOCKET NO :**

SEN004 T302

**CORRESPONDENT E-MAIL ADDRESS:**

trademarks-ch@btlaw.com

**OFFICE ACTION  
EXAMINER'S SUBSEQUENT FINAL REFUSAL**

**ISSUE/MAILING DATE:** 3/31/2014

**THIS IS A SUBSEQUENT FINAL ACTION.**

**INTRODUCTION**

This Office action responds to applicant's communication filed on February 19, 2014 ("Third Response").

• **Case History**

Applicant filed a use-based application for FAST ACCESS for "security software using facial recognition" on March 28, 2012. The application was initially refused on July 10, 2012 on grounds (i) that it gave rise to a likelihood of confusion with the mark FASTACCESS for "telecommunications services, namely, ISDN voice and data transmission services"; and (ii) that it was merely descriptive. In addition, the examining attorney requested information about applicant's goods.

Applicant filed its First Response on January 8, 2013, providing a disclaimer of "Access" and arguing against the refusal, but failing to respond to the information requirement.

The trademark examining attorney issued a Final Office action on January 29, 2013 ("Final Action"), maintaining the refusals based on a likelihood of confusion, and mere descriptiveness, and maintaining the information requirement.

On July 29, 2013, applicant responded by filing a notice of appeal to the Trademark Trial and Appeal

Board (Board) and a request for reconsideration of the issues presented in the Final Office action ( **“Second Response”**), including a withdrawal of the disclaimer of “Access” and a claim of acquired distinctiveness based on evidence. The Board then suspended the appeal and remanded the application to the trademark examining attorney for consideration of the request.

The trademark examining attorney issued a non-final office action ( **“Third Action”**) on August 19, 2013, indicating that the evidence submitted in support of acquired distinctiveness was insufficient to overcome the refusal, in part because the evidence showed use of a different mark. The examining attorney maintained the refusal under trademark act Section 2(d).

Applicant’s **Third Response** amended the mark to FASTACCESS to match the previously submitted evidence, and argued against the likelihood of confusion and merely descriptive refusals.

After reviewing applicant’s arguments, the trademark examining attorney maintains and now makes FINAL the refusal(s) the summary of issues below. *See* 37 C.F.R. §2.64(a); TMEP §714.04.

The appeal has remained suspended while the application is on remand. TMEP §715.04. Because applicant’s Third Response did not resolve all issues, the Board will be notified to resume the appeal. *Id*

**SUMMARY OF ISSUES MADE FINAL that applicant must address:**

- **REFUSAL – LIKELIHOOD OF CONFUSION**
- **REFUSAL – MARK IS MERELY DESCRIPTIVE**

**1. REFUSAL – LIKELIHOOD OF CONFUSION**

Registration of the applied-for mark is refused because of a likelihood of confusion with the mark in U.S. Registration No. 2341694. Trademark Act Section 2(d), 15 U.S.C. §1052(d); *see* TMEP §§1207.01 *et seq.* See the enclosed registration.

**A. The Marks**

Applicant’s mark is FASTACCESS (in standard character form) for “SECURITY SOFTWARE USING FACIAL RECOGNITION” in International Class 009.

Registrant’s mark is FASTACCESS (also in standard character or “typed” form) for “telecommunications services, namely, ISDN voice and data transmission services” in International Class 038.

**B. Overview – Likelihood of Confusion**

Trademark Act Section 2(d) bars registration of an applied-for mark that so resembles a registered mark that it is likely a potential consumer would be confused, mistaken, or deceived as to the source of the goods and/or services of the applicant and registrant. *See* 15 U.S.C. §1052(d). A determination of likelihood of confusion under Section 2(d) is made on a case-by case basis and the factors set forth in *In re E. I. du Pont de Nemours & Co.*, 476 F.2d 1357, 177 USPQ 563 (C.C.P.A. 1973) aid in this determination. *Citigroup Inc. v. Capital City Bank Grp., Inc.*, 637 F.3d 1344, 1349, 98 USPQ2d 1253, 1256 (Fed. Cir. 2011) (citing *On-Line Careline, Inc. v. Am. Online, Inc.*, 229 F.3d 1080, 1085, 56 USPQ2d 1471, 1474 (Fed. Cir. 2000)). Not all the *du Pont* factors, however, are necessarily relevant or of equal weight, and any one of the factors may control in a given case, depending upon the evidence of record. *Citigroup Inc. v. Capital City Bank Grp., Inc.*, 637 F.3d at 1355, 98 USPQ2d at 1260; *In re Majestic Distilling Co.*, 315 F.3d 1311, 1315, 65 USPQ2d 1201, 1204 (Fed. Cir. 2003); *see In re E. I. du Pont de Nemours & Co.*, 476 F.2d at 1361-62, 177 USPQ at 567.

In this case, the following factors are the most relevant: similarity of the marks, similarity and nature of the goods and/or services, and similarity of the trade channels of the goods and/or services. *See In re Viterra Inc.*, 671 F.3d 1358, 1361-62, 101 USPQ2d 1905, 1908 (Fed. Cir. 2012); *In re Dakin's Miniatures Inc.*, 59 USPQ2d 1593, 1595-96 (TTAB 1999); TMEP §§1207.01 *et seq.*

### **C. Discussion – Legal Analysis**

#### **C.1 The Marks are Identical**

In a likelihood of confusion determination, the marks in their entireties are compared for similarities in appearance, sound, connotation, and commercial impression. *In re E. I. du Pont de Nemours & Co.*, 476 F.2d 1357, 1361, 177 USPQ 563, 567 (C.C.P.A. 1973); TMEP §1207.01(b)-(b)(v).

In the present case, the marks are identical in terms of appearance and sound. In addition, the connotation and commercial impression of the marks do not differ when considered in connection with applicant's and registrant's respective goods and/or services.

Therefore, the marks are confusingly similar.

#### **C.2 The Goods / Services and Trade Channels are Closely Related**

As the case law and attached evidence shows, applicant's and registrant's goods and/or services are commercially related.

Where, as here, the marks of the respective parties are identical or virtually identical, the relationship between the relevant goods and/or services need not be as close to support a finding of likelihood of confusion. *See In re Shell Oil Co.*, 992 F.2d 1204, 1207, 26 USPQ2d 1687, 1689 (Fed. Cir. 1993); *In re Davey Prods. Pty Ltd.*, 92 USPQ2d 1198, 1202 (TTAB 2009); *In re Thor Tech, Inc.*, 90 USPQ2d 1634, 1636 (TTAB 2009); TMEP §1207.01(a).

The goods and/or services of the parties need not be identical or even competitive to find a likelihood of confusion. *See On-line Careline Inc. v. Am. Online Inc.*, 229 F.3d 1080, 1086, 56 USPQ2d 1471, 1475 (Fed. Cir. 2000); *Recot, Inc. v. Becton*, 214 F.3d 1322, 1329, 54 USPQ2d 1894, 1898 (Fed. Cir. 2000) (“[E]ven if the goods in question are different from, and thus not related to, one another in kind, the same goods can be related in the mind of the consuming public as to the origin of the goods.”); TMEP §1207.01(a)(i).

The respective goods and/or services need only be “related in some manner and/or if the circumstances surrounding their marketing [be] such that they could give rise to the mistaken belief that [the goods and/or services] emanate from the same source.” *Coach Servs., Inc. v. Triumph Learning LLC*, 668 F.3d 1356, 1369, 101 USPQ2d 1713, 1722 (Fed. Cir. 2012) (quoting *7-Eleven Inc. v. Wechsler*, 83 USPQ2d 1715, 1724 (TTAB 2007)); *Gen. Mills Inc. v. Fage Dairy Processing Indus. SA*, 100 USPQ2d 1584, 1597 (TTAB 2011); TMEP §1207.01(a)(i).

With respect to applicant's and registrant's goods and/or services, the question of likelihood of confusion is determined based on the description of the goods and/or services stated in the application and registration at issue, not on extrinsic evidence of actual use. *See, e.g., Coach Servs., Inc. v. Triumph*

*Learning LLC*, 668 F.3d 1356, 1369-70, 101 USPQ2d 1713, 1722 (Fed. Cir. 2012); *Octocom Sys. Inc. v. Hous. Computers Servs. Inc.*, 918 F.2d 937, 942, 16 USPQ2d 1783, 1787 (Fed. Cir. 1990).

Absent restrictions in an application and/or registration, the identified goods and/or services are “presumed to travel in the same channels of trade to the same class of purchasers.” *In re Viterro Inc.*, 671 F.3d 1358, 1362, 101 USPQ2d 1905, 1908 (Fed. Cir. 2012) (quoting *Hewlett-Packard Co. v. Packard Press, Inc.*, 281 F.3d 1261, 1268, 62 USPQ2d 1001, 1005 (Fed. Cir. 2002)). Additionally, unrestricted and broad identifications are presumed to encompass all goods and/or services of the type described. *See In re Jump Designs, LLC*, 80 USPQ2d 1370, 1374 (TTAB 2006) (citing *In re Elbaum*, 211 USPQ 639, 640 (TTAB 1981)); *In re Linkvest S.A.*, 24 USPQ2d 1716, 1716 (TTAB 1992).

In this case, the identification set forth in the application and registration(s) has no restrictions as to nature, type, channels of trade, or classes of purchasers. Therefore, it is presumed that these goods and/or services travel in all normal channels of trade, and are available to the same class of purchasers.

The trademark examining attorney has attached evidence from the USPTO’s X-Search database consisting of a number of third-party marks registered for use in connection with the same or similar goods and/or services as those of both applicant and registrant in this case. This evidence shows that the goods and/or services listed therein, namely facial recognition and biometric identification software and telecommunications transmissions services, are of a kind that may emanate from a single source under a single mark. *See In re Anderson*, 101 USPQ2d 1912, 1919 (TTAB 2012); *In re Albert Trostel & Sons Co.*, 29 USPQ2d 1783, 1785-86 (TTAB 1993); *In re Mucky Duck Mustard Co.*, 6 USPQ2d 1467, 1470 n.6 (TTAB 1988); TMEP §1207.01(d)(iii).

The previously submitted evidence demonstrates that the goods/services are in fact closely related. The attached Internet evidence consists of website screenshots from third parties. This evidence establishes that: (i) the same entity commonly manufactures/produces/provides the relevant goods and/or services and markets the goods and/or services under the same mark; (ii) the relevant goods and/or services are sold or provided through the same trade channels and used by the same classes of consumers in the same fields of use; and (iii) the goods and/or services are similar or complementary in terms of purpose or function. Therefore, applicant’s and registrant’s goods and/or services are considered related for likelihood of confusion purposes. *See, e.g., In re Davey Prods. Pty Ltd.*, 92 USPQ2d 1198, 1202-04 (TTAB 2009); *In re Toshiba Med. Sys. Corp.*, 91 USPQ2d 1266, 1268-69, 1271-72 (TTAB 2009).

Evidence obtained from the Internet may be used to support a determination under Trademark Act Section 2(d) that goods and/or services are related. *See, e.g., In re G.B.I. Tile & Stone, Inc.*, 92 USPQ2d 1366, 1371 (TTAB 2009); *In re Paper Doll Promotions, Inc.*, 84 USPQ2d 1660, 1668 (TTAB 2007).

### **C.3 Doubt is Resolved in Favor of Registrant**

The overriding concern is not only to prevent buyer confusion as to the source of the goods and/or services, but to protect the registrant from adverse commercial impact due to use of a similar mark by a newcomer. *See In re Shell Oil Co.*, 992 F.2d 1204, 1208, 26 USPQ2d 1687, 1690 (Fed. Cir. 1993). Therefore, although applicant asserts that “the burden of proof is on the Trademark Office to establish a likelihood of confusion” the evidence presented in this case more than meets that burden, in particular given that the marks are identical and are closely related goods and services that are used in a complementary fashion and are presumed to be found in the same trade channels.

Therefore, any doubt regarding a likelihood of confusion determination is resolved in favor of the registrant. *In re Power Distrib., Inc.*, \_\_\_ USPQ2d \_\_\_, Ser. No. 77825939, 2012 TTAB LEXIS 402, at \*12 (Sept. 29, 2012); TMEP §1207.01(d)(i); *see In re Hyper Shoppes (Ohio), Inc.*, 837 F.2d 463, 464-65, 6 USPQ2d 1025, 1025 (Fed. Cir. 1988).

## D. Conclusion

In total, the two marks are similar in sound and appearance and create the same commercial impression and the evidence shows that the goods and/or services are commercially related and likely to be encountered together in the marketplace by consumers. Consumers are likely to be confused and mistakenly believe that the goods and/or services originate from a common source. Therefore, registration must be refused under Section 2(d) of the Lanham Act.

Although applicant's mark has been refused registration, applicant may respond to the refusal(s) by submitting evidence and arguments in support of registration.

Applicant must respond to the following additional refusals and requirements.

### 2. REFUSAL – MARK IS MERELY DESCRIPTIVE

Registration is refused because the applied-for mark merely describes a feature of applicant's goods. Trademark Act Section 2(e)(1), 15 U.S.C. §1052(e)(1); *see* TMEP §§1209.01(b), 1209.03 *et seq.*

A mark is merely descriptive if it describes an ingredient, quality, characteristic, function, feature, purpose, or use of an applicant's goods and/or services. TMEP §1209.01(b); *see, e.g., DuoProSS Meditech Corp. v. Invivo Med. Devices, Ltd.*, 695 F.3d 1247, 1251, 103 USPQ2d 1753, 1755 (Fed. Cir. 2012) (quoting *In re Oppedahl & Larson LLP*, 373 F.3d 1171, 1173, 71 USPQ2d 1370, 1371 (Fed. Cir. 2004)); *In re Steelbuilding.com*, 415 F.3d 1293, 1297, 75 USPQ2d 1420, 1421 (Fed. Cir. 2005) (citing *Estate of P.D. Beckwith, Inc. v. Comm'r of Patents*, 252 U.S. 538, 543 (1920)).

Applicant's mark is **FASTACCESS** for "SECURITY SOFTWARE USING FACIAL RECOGNITION." As previously established, Applicant's own website evidence demonstrates that its software serves to provide quick logon and authentication to access computers and computer applications. *See* Final Action (attaching Internet evidence from applicant's own website demonstrates that applicant depicts its "fast access" as a feature of the security software, as demonstrated by the the following excerpts):

- "...withour **exclusive simple and fast** two factor security, **access** by pictures and video is virtually impossible." <http://www.sensiblevision.com/oem/features.htm>
- "**FastAccess** features Instant Desktop Switching (IDS). With IDS, multiple users **can quickly access their applications** while securely sharing the same computer and network account." *Id.*
- "**FastAccess** allows for true, two factor security **that faster and easy** [*sic*] to use than a standard password" *Id.*
- Instead of constantly typing their account information at the logon screen, users simply access the computer and **FastAccess** will authenticate them and log them on. <http://www.sensiblevision.com/enterprise/enterprise.htm>

Applicant acknowledges that "Applicant's software provides a biometric security solution to gain entry to a computing device and/or services provided by a computing device." *See* Third Response, pg. 4.

Applicant initially agreed to disclaim the term "access" in its Response, thus conceding that the term is descriptive.

For the reasons stated above, the proposed mark merely describes the main feature of applicant's goods and registration on the Principal Register must be finally refused under Trademark Act Section 2(e)(1). Moreover, as previously discussed, applicant's evidence is not sufficient to establish that applicant has acquired distinctiveness in the mark.

**SUBSEQUENT FINAL REFUSAL: Appeal Resumed (Advisory):** Applicant is advised that the appeal will be resumed. The Board will take further appropriate action with regard to any additional ground of refusal. See TMEP 715.04(b); TBMP §1209.01.

/Susan B. Allen/  
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**All informal e-mail communications relevant to this application will be placed in the official application record.**

**WHO MUST SIGN THE RESPONSE:** It must be personally signed by an individual applicant or someone with legal authority to bind an applicant (i.e., a corporate officer, a general partner, all joint applicants). If an applicant is represented by an attorney, the attorney must sign the response.

**PERIODICALLY CHECK THE STATUS OF THE APPLICATION:** To ensure that applicant does not miss crucial deadlines or official notices, check the status of the application every three to four months using the Trademark Status and Document Retrieval (TSDR) system at <http://tsdr.uspto.gov/>. Please keep a copy of the TSDR status screen. If the status shows no change for more than six months, contact the Trademark Assistance Center by e-mail at [TrademarkAssistanceCenter@uspto.gov](mailto:TrademarkAssistanceCenter@uspto.gov) or call 1-800-786-9199. For more information on checking status, see <http://www.uspto.gov/trademarks/process/status/>.

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**Print: Mar 31, 2014**

**75333702**

**DESIGN MARK**

**Serial Number**

75333702

**Status**

REGISTERED AND RENEWED

**Word Mark**

FASTACCESS

**Standard Character Mark**

No

**Registration Number**

2341694

**Date Registered**

2000/04/11

**Type of Mark**

SERVICE MARK

**Register**

PRINCIPAL

**Mark Drawing Code**

(1) TYPED DRAWING

**Owner**

AT&T INTELLECTUAL PROPERTY II, L.P. LIMITED PARTNERSHIP NEVADA 645  
EAST PLUMB LANE RENO NEVADA 89502

**Goods/Services**

Class Status -- ACTIVE. IC 038. US 100 101 104. G & S:  
telecommunications services, namely, ISDN voice and data transmission  
services. First Use: 1997/07/14. First Use In Commerce: 1997/07/14.

**Filing Date**

1997/07/31

**Examining Attorney**

CROWE, ROBERT J.

**Attorney of Record**

David J. Cho



# FASTACCESS

**DESIGN MARK**

**Serial Number**

77178910

**Status**

SECTION 8 & 15-ACCEPTED AND ACKNOWLEDGED

**Word Mark**

CEELOX SECUREMAIL

**Standard Character Mark**

Yes

**Registration Number**

3578454

**Date Registered**

2009/02/24

**Type of Mark**

TRADEMARK; SERVICE MARK

**Register**

PRINCIPAL

**Mark Drawing Code**

(4) STANDARD CHARACTER MARK

**Owner**

CEELOX PATENTS, LLC LIMITED LIABILITY COMPANY KANSAS 10801 MASTIN  
BLVD. SUITE 920 OVERLAND PARK KANSAS

**Goods/Services**

Class Status -- ACTIVE. IC 009. US 021 023 026 036 038. G & S:  
Computer software for use in data encryption, biometric  
authentication, secure communications, secure storage and verification  
of electronic transactions, documents, or communications over a global  
computer network or other computer network and instructional and user  
manuals sold in connection therewith; downloadable computer software  
for use in secure and encrypted data communications and biometric  
authentication, downloadable computer software for use in conducting  
electronic business transactions, communications software for  
connecting computer network users and global computer networks;  
computer software for use in electronic mail services, electronic mail  
forwarding and encryption services, delivery of messages and data by  
electronic transmission, electronic transmission of data and documents  
by computer terminals, and electronic transmission of facsimile  
communications and data featuring encryption and decryption. First  
Use: 2006/11/00. First Use In Commerce: 2006/12/00.

**Goods/Services**

Class Status -- ACTIVE. IC 038. US 100 101 104. G & S: Providing electronic transmission of messages, images and data via Internet and providing telecommunication connections to a global computer network; consultation in the fields of electronic transmission of messages and data; telecommunications gateway services; providing frame relay connectivity services for data transfer, transmission of electronic mail featuring encryption and decryption; providing multi-user access to a global computer information network; electronic transmission of directories of mailing addresses, postal codes, indexes of streets, countries, towns and cities, post office boxes, country dialing codes; delivery of messages by electronic transmission; electronic mail services; electronic store-and-forward messaging. First Use: 2006/11/00. First Use In Commerce: 2006/12/00.

**Goods/Services**

Class Status -- ACTIVE. IC 042. US 100 101. G & S: Providing data encryption services of electronic messages, images, and data; providing computer related security and privacy services, namely, biometric authentication tools for encryption and privacy, user identification and authentication, biometric authentication, intrusion detection and network monitoring. First Use: 2006/11/00. First Use In Commerce: 2006/12/00.

**Disclaimer Statement**

NO CLAIM IS MADE TO THE EXCLUSIVE RIGHT TO USE "SECUREMAIL" APART FROM THE MARK AS SHOWN.

**Filing Date**

2007/05/11

**Examining Attorney**

NELSON, EDWARD H.

**Attorney of Record**

Cheryl L. Burbach

CEELOX SECUREMAIL

**DESIGN MARK**

**Serial Number**

77669359

**Status**

REGISTERED

**Word Mark**

VIEWBIQUITY

**Standard Character Mark**

Yes

**Registration Number**

3716834

**Date Registered**

2009/11/24

**Type of Mark**

TRADEMARK

**Register**

PRINCIPAL

**Mark Drawing Code**

(4) STANDARD CHARACTER MARK

**Owner**

VIEWBIQUITY, LLC LIMITED LIABILITY COMPANY FLORIDA 301 GOOLSBY  
BOULEVARD DEERFIELD BEACH FLORIDA 33442

**Goods/Services**

Class Status -- ACTIVE. IC 009. US 021 023 026 036 038. G & S:  
Surveillance equipment, namely, infrared observation systems comprised  
of infrared detectors; mobile video monitoring systems comprised of  
video monitors and video cameras; video door phones; wireless  
observations systems comprised of wireless video cameras and video  
monitors; video monitors and voice display monitors; micro video  
cameras; micro digital cameras and micro photographic cameras; video  
dome cameras; bullet cameras; pan-tilt-zoom cameras; armored cameras;  
anti-vandal cameras; professional cameras; smoke detector cameras;  
motion detectors with built-in color video cameras and motion  
detectors with built-in color digital cameras; wireless digital camera  
incorporating clock radio; remote controls for video dome cameras,  
Internet Protocol cameras, digital video recorders, network video  
recorders, hybrid video recorders, multi-channel signal processors,  
multichannel video processors and multichannel satellite processors;  
fingerprint access control devices, namely, biometric fingerprint  
scanners, video monitors that are able to receive sound and video

images from video cameras via the telephone, and all related accessories, namely, camera lenses, computer cables, software used in digital video recorders, network video recorders, and hybrid video recorders used to set up and control analog and digital networks of security cameras, facial recognition, license plate recognition, point of sale integration, process improvement software based on video, and other video camera software and recording applications, and power supplies. First Use: 2009/09/18. First Use In Commerce: 2009/09/18.

**Filing Date**

2009/02/12

**Examining Attorney**

KAUFMAN, LAURIE

VIEWBIQUITY

**Print: Mar 31, 2014**

**77715832**

**DESIGN MARK**

**Serial Number**

77715832

**Status**

REGISTERED

**Word Mark**

ACCUFACE

**Standard Character Mark**

No

**Registration Number**

3829230

**Date Registered**

2010/08/03

**Type of Mark**

TRADEMARK

**Register**

PRINCIPAL

**Mark Drawing Code**

(5) WORDS, LETTERS, AND/OR NUMBERS IN STYLIZED FORM

**Owner**

PSP Security Company Limited private limited company HONG KONG Unit 222A, 2/F, Enterprise Place No. 5 Science Park West Avenue Shatin, N.T. HONG KONG

**Goods/Services**

Class Status -- ACTIVE. IC 009. US 021 023 026 036 038. G & S: Biometric devices, namely, biometric facial recognition software and computer hardware for use in the fields of security, access control, time and attendance management, and user authentication; computer software and hardware used for management of biometric facial recognition, identification, and authentication. First Use: 2009/09/02. First Use In Commerce: 2009/09/02.

**Description of Mark**

The mark consists of the term "ACCUFACE" in stylized font.

**Colors Claimed**

Color is not claimed as a feature of the mark.

**Filing Date**

2009/04/16



**Print: Mar 31, 2014**

**77715832**

**Examining Attorney**  
REINHART, MEGHAN

**Attorney of Record**  
John S. Egbert

AccuFACE

**Print: Mar 31, 2014**

**85341184**

**DESIGN MARK**

**Serial Number**

85341184

**Status**

REGISTERED

**Word Mark**

ID-ONE PIV

**Standard Character Mark**

Yes

**Registration Number**

4184225

**Date Registered**

2012/07/31

**Type of Mark**

TRADEMARK; SERVICE MARK

**Register**

PRINCIPAL

**Mark Drawing Code**

(4) STANDARD CHARACTER MARK

**Owner**

OBERTHUR TECHNOLOGIES JOINT STOCK COMPANY FRANCE 50 quai Michelet  
92300 Levallois Perret FRANCE

**Goods/Services**

Class Status -- ACTIVE. IC 009. US 021 023 026 036 038. G & S:  
Software for the design and implementation of personal identification  
systems; microprocessors and operating systems software to permit  
encryption and decryption for verification and identification of users  
to ensure security in access and communications and for creating,  
deleting, reading, selecting and updating files containing data stored  
in a secure database; software for personal computers for the purpose  
of permitting encryption and decryption for verification and  
identification of users to ensure security in access and  
communications and for creating, deleting, reading, selecting and  
updating files containing data stored in a secure database;  
microprocessor cards for computers, memory chip cards, magnetic coded  
cards, electronic card readers and customized software all for use in  
association with personal identification systems; biometric readers.  
First Use: 2009/05/00. First Use In Commerce: 2009/07/00.

**Goods/Services**

Class Status -- ACTIVE. IC 016. US 002 005 022 023 029 037 038 050.  
G & S: Identity or identification cards, badges and documents of  
paper, of cardboard and/or of plastics materials. First Use:  
2009/05/00. First Use In Commerce: 2009/07/00.

**Goods/Services**

Class Status -- ACTIVE. IC 038. US 100 101 104. G & S: Electronic  
data transfer; transmission and distribution of data or audio visual  
images via a global computer network; transfer of data by  
telecommunications; and providing access to databases, data processing  
systems, and telecommunications networks, all for the purpose of  
identifying users for security. First Use: 2011/09/00. First Use In  
Commerce: 2011/09/00.

**Goods/Services**

Class Status -- ACTIVE. IC 042. US 100 101. G & S: Design and  
development of computer systems for identifying persons; technical  
support and consultation in the nature of diagnosing problems with  
computer systems for identifying persons; maintenance of computer  
software for the design and implementation of systems for identifying  
persons. First Use: 2010/06/00. First Use In Commerce: 2010/10/00.

**Prior Registration(s)**

3662451

**Disclaimer Statement**

NO CLAIM IS MADE TO THE EXCLUSIVE RIGHT TO USE "PIV" APART FROM THE  
MARK AS SHOWN.

**Colors Claimed**

Color is not claimed as a feature of the mark.

**Filing Date**

2011/06/08

**Examining Attorney**

CARROLL, DORITT L.

**Attorney of Record**

Leigh Ann Lindquist

ID-ONE PIV

**Print: Mar 31, 2014**

**85407483**

**DESIGN MARK**

**Serial Number**

85407483

**Status**

REGISTERED

**Word Mark**

AUREUS 3D

**Standard Character Mark**

Yes

**Registration Number**

4232452

**Date Registered**

2012/10/30

**Type of Mark**

TRADEMARK

**Register**

PRINCIPAL

**Mark Drawing Code**

(4) STANDARD CHARACTER MARK

**Owner**

CyberExtruder.com, Inc. CORPORATION NEW YORK 211 Warren Street Newark  
NEW JERSEY 07103

**Goods/Services**

Class Status -- ACTIVE. IC 009. US 021 023 026 036 038. G & S:  
Computer software for use in facial recognition, facial  
reconstruction, tracking facial features, subject identification and  
verification, surveillance of people and property; forensic analysis,  
constructing 3-dimensional facial images, generating avatars, creating  
3-dimensional representations of a subject, creating 3-dimensional  
representations of 2-dimensional images, each in the fields of  
entertainment, gaming, media, electronic publishing, education,  
security, homeland security, law enforcement, public safety, visitor  
access control, guest management, and HIPAA compliance. First Use:  
2011/07/12. First Use In Commerce: 2011/07/12.

**Disclaimer Statement**

NO CLAIM IS MADE TO THE EXCLUSIVE RIGHT TO USE "3D" APART FROM THE  
MARK AS SHOWN.

**Filing Date**

**Print: Mar 31, 2014**

**85407483**

2011/08/25

**Examining Attorney**  
BENMAMAN, ALICE

**Attorney of Record**  
Joel N.Bock, Esq.

# AUREUS 3D



**DESIGN MARK**

**Serial Number**

85407498

**Status**

REGISTERED

**Word Mark**

AUREUS 3D

**Standard Character Mark**

Yes

**Registration Number**

4232453

**Date Registered**

2012/10/30

**Type of Mark**

SERVICE MARK

**Register**

PRINCIPAL

**Mark Drawing Code**

(4) STANDARD CHARACTER MARK

**Owner**

CyberExtruder.com, Inc. CORPORATION NEW YORK 211 Warren Street Newark  
NEW JERSEY 07103

**Goods/Services**

Class Status -- ACTIVE. IC 042. US 100 101. G & S: Providing temporary use of online non-downloadable software for facial recognition, facial reconstruction, tracking facial features, subject identification and verification, surveillance of people and property, forensic analysis, constructing 3-dimensional facial images, generating avatars, creating 3-dimensional representations of a subject, creating 3-dimensional representations of 2-dimensional images, each in the fields of entertainment, gaming, media, electronic publishing, education, security, homeland security, law enforcement, public safety, visitor access control, guest management, and HIPAA compliance; software development services for use in facial recognition, facial reconstruction, tracking facial features, subject identification and verification, surveillance, forensic analysis, constructing 3-dimensional facial images, generating avatars, creating 3-dimensional representations of a subject, creating 3-dimensional representations of 2-dimensional images, each in the fields of entertainment, gaming, media, electronic publishing, education,

security, homeland security, law enforcement, public safety, visitor access control, guest management, and HIPAA compliance. First Use: 2011/07/12. First Use In Commerce: 2011/07/12.

**Disclaimer Statement**

NO CLAIM IS MADE TO THE EXCLUSIVE RIGHT TO USE "3D" APART FROM THE MARK AS SHOWN.

**Filing Date**

2011/08/25

**Examining Attorney**

BENMAMAN, ALICE

**Attorney of Record**

Joel N.Bock, Esq.

AUREUS 3D

**Print: Mar 31, 2014**

**85597322**

**DESIGN MARK**

**Serial Number**

85597322

**Status**

REGISTERED

**Word Mark**

ANIMETRICS

**Standard Character Mark**

No

**Registration Number**

4271166

**Date Registered**

2013/01/08

**Type of Mark**

TRADEMARK; SERVICE MARK

**Register**

PRINCIPAL

**Mark Drawing Code**

(3) DESIGN PLUS WORDS, LETTERS AND/OR NUMBERS

**Owner**

ANIMETRICS, INC. CORPORATION DELAWARE 53 TECHNOLOGY LANE CONWAY NEW HAMPSHIRE 03818

**Goods/Services**

Class Status -- ACTIVE. IC 009. US 021 023 026 036 038. G & S: COMPUTER SOFTWARE FOR 3-DIMENSIONAL IMAGING AND ANALYSIS IN THE FIELD OF FACIAL RECOGNITION; PATTERN RECOGNITION COMPUTER SOFTWARE FOR FACIAL BIOMETRIC IDENTIFICATION AND FOR ORGANIZING RELATED DATA INTO PHOTOGRAPHIC DATABASES AND FOR PROVIDING ACCESS TO PHOTOGRAPHIC DATABASES; COMPUTER SOFTWARE THAT PROVIDES ACCESS TO WEB-BASED PATTERN RECOGNITION SOFTWARE IN THE NATURE OF FACIAL RECOGNITION APPLICATIONS AND SERVICES THROUGH A WEB OPERATING SYSTEM OR PORTAL INTERFACE. First Use: 2007/03/01. First Use In Commerce: 2007/03/01.

**Goods/Services**

Class Status -- ACTIVE. IC 042. US 100 101. G & S: CLOUD COMPUTING SERVICES FEATURING SOFTWARE FOR FACIAL BIOMETRIC IDENTIFICATION AND FOR ORGANIZING RELATED DATA INTO PHOTOGRAPHIC DATABASES AND FOR ACCESSING PHOTOGRAPHIC DATABASES; PROVIDING A WEB-BASED SERVICE FEATURING TECHNOLOGY THAT ENABLES USERS TO VERIFY IDENTIFICATION THROUGH FACIAL BIOMETRIC IDENTIFICATION. First Use: 2007/03/01.

**Print: Mar 31, 2014**

**85597322**

First Use In Commerce: 2007/03/01.

**Prior Registration(s)**

3014277;3035308

**Description of Mark**

The mark consists of the literal element "ANIMETRICS" in stylized font; to the lower right of the letter "A" is a crescent design with the opening of the crescent forming a semi-circle around the letter "A".

**Colors Claimed**

Color is not claimed as a feature of the mark.

**Filing Date**

2012/04/13

**Examining Attorney**

PARKS, KIMBERLY

**Attorney of Record**

SARI ANN STRASBURG

**ANIMETRICS**

**DESIGN MARK**

**Serial Number**

85768376

**Status**

REGISTERED

**Word Mark**

STONE LOCK

**Standard Character Mark**

Yes

**Registration Number**

4499068

**Date Registered**

2014/03/18

**Type of Mark**

TRADEMARK

**Register**

PRINCIPAL

**Mark Drawing Code**

(4) STANDARD CHARACTER MARK

**Owner**

MyDigiThat Technologies, Inc. CORPORATION KANSAS 5251 W. 116th Place,  
Suite 200 Leawood KANSAS 66211

**Goods/Services**

Class Status -- ACTIVE. IC 009. US 021 023 026 036 038. G & S:  
Biometric facial authentication devices; biometric identification  
apparatus; biometric identification apparatus, namely, apparatus and  
instruments for automatic identification of persons, computerized time  
clock with biometric recognition, entry door systems comprising touch  
pads and security doors; biometric checking and identification  
apparatus; biometric checking and identification apparatus, namely,  
computerized time clock with biometric recognition; biometric devices,  
namely, an electronic sensor for biometric facial recognition for the  
fields of security, access control, and time and attendance; computer  
software in the field of biometric systems for the identification and  
authentication of persons, and in the field of encryption; optical  
sensors for the identification and authentication of persons;  
apparatus and systems for access control, attendance monitoring, time  
management, monetic management, secured payment, namely, electronic  
video surveillance products, namely, electronic components of security  
systems, secure terminals for electronic transactions; memory or micro

processing cards, namely, electronic cards for processing images, memory cards, magnetic identifying cards, magnetic identification cards, data processors, microprocessors, computer peripheral devices, microchips for the identification and authentication of persons; portable multi-modal biometric electronic device supporting the capture, matching, and transmission of facial images. First Use: 2010/04/00. First Use In Commerce: 2013/01/00.

**Disclaimer Statement**

NO CLAIM IS MADE TO THE EXCLUSIVE RIGHT TO USE "LOCK" APART FROM THE MARK AS SHOWN.

**Filing Date**

2012/10/31

**Examining Attorney**

JACKSON, WILLIAM

**Attorney of Record**

Joan Optican Herman



# STONE LOCK

**Print: Mar 31, 2014**

**85831771**

**DESIGN MARK**

**Serial Number**

85831771

**Status**

REGISTERED

**Word Mark**

FACEMATCH

**Standard Character Mark**

Yes

**Registration Number**

4464229

**Date Registered**

2014/01/07

**Type of Mark**

TRADEMARK

**Register**

SUPPLEMENTAL

**Mark Drawing Code**

(4) STANDARD CHARACTER MARK

**Owner**

NXT-ID, Inc. CORPORATION CONNECTICUT Suite 402 4 Research Drive  
Shelton CONNECTICUT 06484

**Goods/Services**

Class Status -- ACTIVE. IC 009. US 021 023 026 036 038. G & S:  
Modular facial recognition software for smartphones, tablets, laptops  
and desktop computers utilizing 3D and 2D cameras, algorithms,  
authentication and encryption for purposes of verifying the identity  
of an individual prior to granting access to a device, data or door.  
First Use: 2012/01/02. First Use In Commerce: 2012/11/21.

**Filing Date**

2013/01/24

**Amended Register Date**

2013/11/05

**Examining Attorney**

LOBO, DEBORAH

**Attorney of Record**

**Print: Mar 31, 2014**

**85831771**

AMBER N. DAVIS

# FACEMATCH

**DESIGN MARK**

**Serial Number**

85978104

**Status**

REGISTERED

**Word Mark**

PRIMA CINEMA

**Standard Character Mark**

No

**Registration Number**

4273543

**Date Registered**

2013/01/08

**Type of Mark**

TRADEMARK; SERVICE MARK

**Register**

PRINCIPAL

**Mark Drawing Code**

(5) WORDS, LETTERS, AND/OR NUMBERS IN STYLIZED FORM

**Owner**

Prima Cinema, Inc. CORPORATION DELAWARE 5938 Priestly Drive, Suite 200  
Carlsbad CALIFORNIA 92008

**Goods/Services**

Class Status -- ACTIVE. IC 009. US 021 023 026 036 038. G & S: Set top boxes, digital video recorders, digital media adapters, audio-video receivers, media players, audio and video media recorders, digital media servers, computer hardware, namely, biometric identification readers and scanners, computer peripherals and software for use in the transmission, storage and playback of audio and video content; computer software for use in computers and servers for the transmission, storage and playback of audio and video content; software for use in set top boxes, digital video recorders, digital media adapters, audio-video receivers, mobile phones, media players, audio and video media recorders, digital media servers, portable media players, computer hardware, namely, biometric identification readers and scanners, tablet computing devices, computer hardware and computer peripherals for the transmission, storage and playback of audio and video content; downloadable digitally formatted audio and video entertainment content featuring movies, films, and theatrical or musical productions. First Use: 2012/06/28. First Use In Commerce:

2012/09/09.

**Goods/Services**

Class Status -- ACTIVE. IC 038. US 100 101 104. G & S:  
Transmission of audio and video content over global computer networks;  
audio and video on-demand transmission services; pay-per-view audio  
and video transmission services. First Use: 2012/06/28. First Use In  
Commerce: 2012/08/06.

**Goods/Services**

Class Status -- ACTIVE. IC 041. US 100 101 107. G & S:  
Entertainment services in the nature of development, creation,  
production and post-production services of multimedia entertainment  
content; providing information in the field of entertainment,  
featuring the selection and purchase of audio and video entertainment  
content; entertainment services, namely, providing non-downloadable  
digitally formatted audio and video entertainment content for remote  
local playback via global communications networks. First Use:  
2012/06/28. First Use In Commerce: 2012/08/06.

**Disclaimer Statement**

NO CLAIM IS MADE TO THE EXCLUSIVE RIGHT TO USE "CINEMA" APART FROM THE  
MARK AS SHOWN.

**Description of Mark**

The mark consists of a stylized version of the words "PRIMA CINEMA" in  
all caps, and with a stylized version of the letter "I" which is  
larger, and in a different style and font, than the other letters.

**Colors Claimed**

Color is not claimed as a feature of the mark.

**Filing Date**

2010/03/31

**Examining Attorney**

SNAPP, TINA L.

**Attorney of Record**

Charles R. Halloran

**P R I M A**

**C I N E M A**

**To:** Sensible Vision, Inc. ([trademarks-ch@btlaw.com](mailto:trademarks-ch@btlaw.com))  
**Subject:** U.S. TRADEMARK APPLICATION NO. 85582656 - FASTACCESS - SEN004 T302  
**Sent:** 3/31/2014 9:30:14 PM  
**Sent As:** ECOM105@USPTO.GOV  
**Attachments:**

**UNITED STATES PATENT AND TRADEMARK OFFICE (USPTO)**

**IMPORTANT NOTICE REGARDING YOUR  
U.S. TRADEMARK APPLICATION**

USPTO OFFICE ACTION (OFFICIAL LETTER) HAS ISSUED  
ON **3/31/2014** FOR U.S. APPLICATION SERIAL NO. 85582656

Please follow the instructions below:

**(1) TO READ THE LETTER:** Click on this [link](#) or go to <http://tsdr.uspto.gov>, enter the U.S. application serial number, and click on “Documents.”

The Office action may not be immediately viewable, to allow for necessary system updates of the application, but will be available within 24 hours of this e-mail notification.

**(2) TIMELY RESPONSE IS REQUIRED:** Please carefully review the Office action to determine (1) how to respond, and (2) the applicable response time period. Your response deadline will be calculated from **3/31/2014** (*or sooner if specified in the Office action*). For information regarding response time periods, see <http://www.uspto.gov/trademarks/process/status/responsetime.jsp>.

**Do NOT hit “Reply” to this e-mail notification, or otherwise e-mail your response** because the USPTO does NOT accept e-mails as responses to Office actions. Instead, the USPTO recommends that you respond online using the Trademark Electronic Application System (TEAS) response form located at [http://www.uspto.gov/trademarks/teas/response\\_forms.jsp](http://www.uspto.gov/trademarks/teas/response_forms.jsp).

**(3) QUESTIONS:** For questions about the contents of the Office action itself, please contact the assigned trademark examining attorney. For *technical* assistance in accessing or viewing the Office action in the Trademark Status and Document Retrieval (TSDR) system, please e-mail [TSDR@uspto.gov](mailto:TSDR@uspto.gov).

**WARNING**

**Failure to file the required response by the applicable response deadline will result in the**



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Please carefully review all correspondence you receive regarding this application to make sure that you are responding to an official document from the USPTO rather than a private company solicitation. All official USPTO correspondence will be mailed only from the “United States Patent and Trademark Office” in Alexandria, VA; or sent by e-mail from the domain “@uspto.gov.” For more information on how to handle private company solicitations, see [http://www.uspto.gov/trademarks/solicitation\\_warnings.jsp](http://www.uspto.gov/trademarks/solicitation_warnings.jsp).